STATES PATENT AND TRADEMARK OFFICE UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov AUG 0 4 2006 FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. & TRADEMARY 10/29/2004 John Andrew Hodgson 7967 **EXAMINER** 7590 07/28/2006 JOHN ANDREW HODGSON BARRERA, RAMON M 340 6th STREET NORTH ART UNIT PAPER NUMBER SAFETY HARBOR, FL 34695 2832

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	4)	Attachment(s) 1) Motice of References Cited (PTO-892) 2) Motice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date
ion Noed in this National Stage	ts have been received. ts have been received in Applica' brity documents have been receiv tu (PCT Rule 17.2(a)).	Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 2. Certified copies of the priority documen S. Copies of the certified copies of the priority documen application from the International Bures and the attached detailed Office action for a list * See the attached detailed Office action for a list *
e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).	a)☐ accepted or b)⊠ objected drawing(s) be held in abeyance. Se tion is required if the drawing(s) is ob	9) The specification is objected to by the Examine 10) The drawing(s) filed on 3/27/04,6/25/04 is/are: Replacement drawing sheet(s) including the correct Replacement drawing sheet(s) including the correct Replacement drawing sheet(s) including the Examine 11) The oath or declaration is objected to by the Examine 11) The oath or declaration is objected to by the Examine 11) The oath or declaration is objected to by the Examine 11) The oath or declaration is objected to by the Examine 11) The oath or declaration is objected to by the Examine 11) The oath or declaration is objected to by the Examine 11).
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	no from consideration.	Disposition of Claims 4) ☐ Claim(s) 1-15 is/are pending in the application. 4a) Of the above claim(s)
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secution as to the merits is	oce except for formal matters, pro	3) Since this application is in condition for allowar
	action is non-final.	Za)
		1) Responsive to communication(s) filed on
ly filed (35 U.S.C. § 133).	TE OF THIS COMMUNICATION (6(a). In no event, however, may a reply be time iii apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONED cause the application to become ABANDONED.	Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period w Failure to reply within the set or extended period for reply will, by statute, Kny reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).
rrespondence address	sars on the cover sheet with the co	odgs notice of this communication approach
2832	Ramon M. Barrera	
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HODGSON, JOHN ANDREW		
Applicant(s)	Application No.	

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DETAILED ACTION

Priority

sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or be submitted during the pendency of the application and within the later of four months November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must which entered the national stage from an international application filed on or after the filing date of the prior application. If the application is a utility or plant application later of four months from the actual filing date of the application or sixteen months from application must be submitted during the pendency of the application and within the 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior nonprovisional applications. If the application is a utility or plant application filed under must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on application must be inserted as the first sentence(s) of the specification of this disclosed in prior Application No. 60/459404, filed 4/1/03. A reference to the prior U.S.C. 119(e) as follows: It is noted that this application appears to claim subject matter with one or more conditions for receiving the benefit of an earlier filing date under 35 or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e)

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and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

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2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60/459404, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application.

Drawings

3. The drawings are objected to because figures have been numbered nonconsecutively, i.e, even numbered figures are absent. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary,

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the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

- 4. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.
- 5. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

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REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.) (f) BACKGROUND OF THE INVENTION.

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- (1) Field of the Invention.
- (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (I) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Content of Specification

- (a) <u>Title of the Invention</u>: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) <u>Cross-References to Related Applications</u>: See 37 CFR 1.78 and MPEP § 201.11.
- (c) <u>Statement Regarding Federally Sponsored Research and Development:</u> See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc:
 The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

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Or alternatively, <u>Reference to a "Microfiche Appendix</u>": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

- (f) <u>Background of the Invention</u>: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) <u>Brief Description of the Several Views of the Drawing(s)</u>: See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they

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should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (I) <u>Sequence Listing.</u> See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.
- 6. A substitute specification is required pursuant to 37 CFR 1.125(a) because numerous changes have been made to the original specification filed 3/27/04.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive

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characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

Response to Amendment

The amendments to the claims filed on 12/17/04 and 1/18/04 do not comply with the requirements of 37 CFR 1.121(c) because of failure to supply a marked up version of the amended claims. Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states:

- (c) Claims. Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).
- (1) Claim listing. All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1–5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.
- (2) When claim text with markings is required. All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed

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before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

- (3) When claim text in clean version is required. The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, i.e., without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, i.e., without any underlining.
 - (4) When claim text shall not be presented; canceling a claim.
- (i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."
- (ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.
- (5) Reinstatement of previously canceled claim. A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-15 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a credible asserted utility or a well established utility. The asserted utility is deemed to be inconsistent with known scientific principles or speculative at best.

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Claims 1-15 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a credible asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 9. Claims 1-15 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Allen, et al., or Holland, insofar as understood.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The unapplied cited references disclose electromagnetic treatment of water.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramon M. Barrera whose telephone number is (571) 272-1987. The examiner can normally be reached on Monday through Friday from 11 to 5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kamon M Banera Ramon M Barrera Primary Examiner Art Unit 2832

rmb

Notice of References Cited Application/Control No. | Applicant(s)/Patent Under Reexamination HODGSON, JOHN ANDREW Examiner | Art Unit | Page 1 of 2

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	Α	US-2,596,743 A	05-1952	VERMEIREN THEOPHILE I S	210/222
*	В	US-2,652,925 A	09-1953	Vermeiren	210/222
*	U	US-4,746,425 A	05-1988	Stickler et al.	210/175
*	D	US-5,068,039 A	11-1991	Cure et al.	210/695
*	E	US-5,171,431 A	12-1992	Schulte, Hartmut	210/94
*	F	US-5,702,600 A	12-1997	Pandolfo, Salvatore Mario	210/222
*	G	US-5,776,334 A	07-1998	Cho, Young I.	210/138
*	Н	US-5,951,856 A	09-1999	Cho, Young I.	210/138
*	1	US-6,146,526 A	11-2000	Pandolfo, Salvatore Mario	210/222
*	J	US-6,292,085 B1	09-2001	Cho, Young I.	336/200
*	К	US-6,355,166 B1	03-2002	Amarasinghe et al.	210/223
*	L	US-6,730,205 B2	05-2004	Holland, Herbert W.	204/557
*	М	US-6,875,360 B2	04-2005	Allen et al.	210/695

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
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NON-PATENT DOCUMENTS

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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).) Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Applicant(s)/Patent Under Application/Control No. Reexamination 10/810,178 HODGSON, JOHN ANDREW Notice of References Cited Art Unit Examiner Page 2 of 2 2832 Ramon M. Barrera **U.S. PATENT DOCUMENTS** Date **Document Number** Classification Name MM-YYYY Country Code-Number-Kind Code 210/651 04-2001 Graham, William US-6,217,773 B1 Α 210/097 05-2005 Hung, Chien-Ku US-2005/0098486 A1 В US-С US-D US-Ε US-F US-G US-Н US-US-J US-Κ US-L US-М FOREIGN PATENT DOCUMENTS Date **Document Number** Classification Name Country Country Code-Number-Kind Code MM-YYYY N 0 P Q R s Т **NON-PATENT DOCUMENTS** Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages) U ٧

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).) Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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